## IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, TENNESSEE FOR THE NINETEENTH JUDICIAL DISTRICT AT CLARKSVILLE, TENNESSEE GARY LINFOOT and wife, MARI LYN LINFOOT, MC CC CV CTO9 104 Plaintiffs, Docket No. ٧. **Jury Demand** MD HELICOPTERS, INC., JUDGE ASSIGNED L-3 COMMUNICATIONS CORPORATION. \_\_HICKS and KAMATICS CORPORATION, GASAWAY Defendants. JONES COMPLAINT

COME NOW the Plaintiffs and for cause of action against the Defendants state the following:

#### **PARTIES**

- 1 The Plaintiffs are husband and wife and are residents and citizens of Clarksville, Tennessee, and were so at all material times herein.
- 2. At all times material herein, Defendant MD HELICOPTERS, INC. ("MD HELICOPTERS"), was an Arizona corporation with its principal place of business in the State of Arizona.
- 3. At all times material herein, Defendant L-3 COMMUNICATIONS CORPORATION ("L-3 COMMUNICATIONS") was a Delaware corporation with its principal place of business in the State of New York.
- At all times material herein, Defendant KAMATICS CORPORATION ("KAMATICS") was a Connecticut corporation with its principal place of business in the State of New York.

#### **JURISDICTION**

EXHIBIT

5. The Jurisdiction of this Court is invoked pursuant to Tennessee Code Annotated §§ 16-10-101 and 20-2-214.

#### FACTUAL BACKGROUND

- 6. On or about May 31st, 2008, plaintiff GARY LINFOOT was a United States Army soldier, holding the rank of CW4, assigned to Ft. Campbell, Tennessee where he was a member of the 160th Special Operations Aviation Regiment (SOAR) unit and was deployed in Iraq, acting as pilot in command of an AH-6M helicopter, US Army tail number 23649 ("subject helicopter").
- 7. On or about May 31st, 2008, at approximately 11:57 p.m. Arabic Standard Time (Baghdad, Iraq local time), plaintiff GARY LINFOOT was piloting the subject helicopter on a mission south of Baghdad, when the subject helicopter's main driveshaft failed which caused a instantaneous and complete loss of drive to the helicopter's rotors to descend crash into the ground in the vicinity of Baghdad ("subject accident").
- 8. Defendants, and each of them, were engaged in the business of manufacturing, designing, assembling, inspecting, distributing, selling, leasing, servicing, maintaining, modifying, and/or repairing the subject helicopter including, but not limited to, the main driveshaft and its component parts, pilot seat and its component parts, and equipment under or about the pilot's seat.
- 9. Modifications to CW4 Linfoot's seat and the addition of avionics equipment under the seat by defendant L-3 COMMUNICATIONS compromised the crash worthiness of the helicopter and caused GARY LINFOOT to suffer worse injuries than he would have suffered otherwise.
- 10. Defendants, and each of them, were engaged in the business of writing and/or approving instructions and warnings for the subject helicopter, its associated main driveshaft and components, its associated pilot's seat and components, and its associated equipment on or about the pilot's seat, including, but not limited to, their flight and operation manuals, maintenance manuals, maintenance and repair instructions, service bulletins, inspection schedules and service life schedules.

- 11. Plaintiff GARY LINFOOT has suffered and continues to suffer severe and permanent bodily and emotional injuries and damages, including pain, suffering, fright, fear of impending death, loss of the enjoyment of life, medical expenses, loss of earning capacity and other damages.
- 12. Plaintiff MARI LYN LINFOOT has been deprived of the services, society, advice, counsel, comfort, companionship, and consortium of her husband, GARY LINFOOT as a result of the bodily and emotional injuries he sustained in the subject accident.

#### COUNT I - NEGLIENCE

- 13. Plaintiffs restate the allegations of paragraphs 1 through 12 above.
- 14. At all times material hereto, defendants MD HELICOPTERS, L-3

  COMMUNICATIONS, and KAMATICS, and each of them, owed plaintiffs a duty to exercise reasonable care in the design, manufacture, assembly, inspection, testing, distribution, sale, servicing, maintenance, modification, overhaul and repair of the subject helicopter and its component parts, including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat.
- 15. Defendants, and each of them, breached their duties to exercise reasonable care and the subject crash and resulting injuries were caused by defendants' negligence, including negligence by its officers, agents, employees and servants, of defendants, and each of them, in that they negligently manufactured, designed, assembled, inspected, tested, distributed, sold, serviced, maintained, modified, overhauled and repaired the subject helicopter and its component parts, including its main driveshaft and components, the pilot's seat and component parts, and equipment on or about the pilot's seat, and negligently developed operating, training, maintenance materials and/or procedures for the subject helicopter and its component parts, including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat.
- 16. The loss of power leading to the subject accident was caused by defendants' negligence in designing, developing, manufacturing, assembling, testing, servicing, inspecting, maintaining,

overhauling, repairing, renovating, modifying and/or remanufacturing the subject helicopter, including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat.

17. As a direct and proximate result of the foregoing negligence of defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them, plaintiffs have suffered substantial damages, including those set forth more fully above, and in an amount not less than fifteen million dollars (\$15,000,000.00) costs and such further relief as directed by this Court.

#### COUNT II - VIOLATION OF TENNESSEE PRODUCTS LIABILITY ACT

- 18. Plaintiffs restate the allegations of paragraphs 1 through 17 above.
- 19. On or about May 31st, 2008, the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat were being operated and used for the purpose and in the manner for which they were designed, manufactured, assembled, tested, serviced, distributed and sold and intended to be used in a manner foreseeable to defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them.
- 20. On or about May 31<sup>st</sup>, 2008, the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat, including accompanying written manuals, procedures, instructions and warnings, were defective, unreasonably dangerous, and unsafe by reason of defective design, manufacturing assembly, inspection, testing, sale, service, repair, overhaul and maintenance of the subject helicopter and its component parts including its main driveshaft and its components, the pilot's seat and components, and equipment under or about the pilot's seat, including its accompanying written manuals, procedures, instructions and warnings.
- 21. On or about May 31st, 2008, defendants, and each of them, were required to design, manufacture, construct, prepare, assemble, test, service, warn, instruct, market, label, and/or sell the

subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat, so pilots could safely operate the helicopter in all foreseeable phases of flight; however the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat, were not adequately designed, manufactured, constructed, prepared, assembled, tested, serviced, marketed, labeled, or contained the necessary warnings and/or instructions so as to prevent a total loss of power to the main driveshaft, prevent catastrophic damage to the main driveshaft coupling(s), prevent the full crashworthiness ability of the pilot seat, and/or prevent the safe, foreseeable operation of the subject helicopter, thus causing the subject helicopter to be unsafe, defective, and unreasonably dangerous.

- 22. The subject crash on or about May 31<sup>st</sup>, 2008 and resulting injuries, were caused by the aforementioned defective, unreasonably dangerous, and unsafe conditions of the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat, and accompanying warnings, instructions, and manuals.
- 23. As a direct and proximate result of the foregoing defective, unreasonably dangerous and unsafe conditions of the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat, and accompanying warnings, instructions, and manuals, defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them, caused plaintiffs to suffer substantial damages, including those set forth more fully above, and in an amount not less than fifteen million dollars (\$15,000,000.00) costs, and such further relief as directed by this Court.

#### COUNT III - BREACH OF WARRANTY

24. Plaintiffs restate the allegations of paragraphs 1 through 23 above.

- 25. Prior to the subject accident on or about May 31<sup>st</sup>, 2008, defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them, warranted and represented that the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat, and accompanying warnings, instructions, and manuals, were airworthy, of merchantable quality, fit and safe for the purposes for which they were designed, manufactured, assembled, sold, installed, tested, maintained, and repaired, and were free from all defects.
- 26. Defendants, and each of them, breached said warranties in that the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat, and accompanying warnings, instructions, and manuals, were not airworthy, not of merchantable quality, and not fit and safe for the purposes for which they were designed, manufactured, assembled, inspected, tested, sold, serviced, repaired, maintained, intended and used, and further were not free from all defects.
- 27. The subject accident on or about May 31<sup>st</sup>, 2008, and resulting injuries were caused by the defendants, and each of them, breach of aforementioned warranties.
- As a direct and proximate result of the foregoing breach of warranties by defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them, plaintiffs have suffered substantial damages, including those set forth more fully above, and in an amount not less than fifteen million dollars (\$15,000,000.00), costs, and such further relief as directed by this Court.

#### PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs GARY LINFOOT and MARI LYN LINFOOT respectfully request a judgment against defendants MD HELICOPTERS, INC., L-3 COMMUNICATIONS, INC., and KAMATICS CORPORATION, and each of them, in an amount not less than fifteen million dollars (\$15,000,000.00), which shall be proven at trial, for the following damages:

- 1. Medical and other expenses;
- 2. Lost wages, lost income, and loss of earning capacity;
- 3. Pain and suffering;
- 4. Emotional and mental anguish;
- 5. Loss of enjoyment of life;
- 6. Loss of consortium, and
- All interests, costs, and other damages and other relief that this Court may deem just under the circumstances of this case.

#### JURY DEMAND

Plaintiffs respectfully demand a trial by jury.

Respectfully submitted,

Martin Sir and Associates

Martin Sir (BPR #7173)

American Center, Tower One 3100 West End Avenue, Suite 870

Nashville, TN 37203

(615) 256-5661

Attorney for Plaintiffs

CIRCUIT COURT SUMMONS		CLARKSVIL	LE, TENNESSEE
	STATE OF TE	NNESSEE [	First
	MONTGOMER	Y COUNTY	Alias
	19 <sup>TH</sup> JUDICIAL		Pluries
		MT	9 104)
Gary Linfoot and Wife, Mari Lyn Linfoot	ļ	MC CC CV CIVIL ACTION	
Wan Lyn Limoot		DOCKET NO	
		Method of Serv	ice:
	Plaintiff	☐ Montgomery Co	ounty Sheriff
VS.	·	Out of County S	•
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L-3 Communications Corporation			
C/o CT Corporation System		☐ Certified Mail	
111 Eighth Avenue New York, NY 10011		☐ Personal Service	ce
	I Defendant		*.
To the above named Defendant:	· · · · · · · · · · · · · · · · · · ·		
Milennium Plaza, Suite 115, Clarksville, TN summons is served upon you. You are fur the Plaintiff's attorney at the address listed	ther directed to file you below. Also, you are	ur defense with the Clerk of summoned to appear at	the Court and send a copy fo
on theday of		, 20, and show cause	
In case of your failure to defend this action demanded in the complaint.	by the above date, jud	dgment by default will be re	ndered against you for the relief
ISSUED: 5-29-09	·	CHERYL	CASTLE
,00025	<del></del>	Circuit Co	
	•	Montgomery Co	unty, Tennessee
1 1	В	v M. Indle	
Martin S. Sir. Esq.			Deputy Clerk
ATTORNEY FOR PLAINTIFF 3	100 West End Ave	enue, Suite 870, Ameri	can Center, Tower One
or <u>1</u>	Nashville, TN 3720	3	
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TO THE SHERIFF:	\$		
Please execute this summons and	d make your return h	nereon as provided by lav	<b>/.</b>
			CHERYL CASTLE
	e e e e e e e e e e e e e e e e e e e		Circuit Court Clerk
Received this summons for service this	s day of	, 20	<del>-</del>
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I hereby certify and return that on t	he day o	of	, 20, 1:
served this s	summons and comp	laint/petition on _	
			in the following manner:
failed to serv	ve this summons wit	hin 30 days after	its issuance because
	Sh	eriff/Process Serve	<b>F</b>
R	eturn on Service o	f Summons by N	lail
I hereby certify and return, that on the return receipt mail or certified return re	day ofday of	, 20 copy of the summor	_ I sent, postage prepaid, by regist ns and a copy of the complaint in On theday of
Docket No to the defendence, 20, I received the return this original summons and both documents.	ne day of nents are being sent h	gistered or certified , 20_ erewith to the Circu	Said return receipt is attached it Court Clerk for filing.
SWORN TO AND SUBSCRIBED BEF  DAY OF  NOTARY PUBLIC OR MY COMMISSION EXPIRES:	ORE ME ON THIS	PLAINTIFF, P	LAINTIFF'S ATTORNEY
NOTICE TO THE DEFENDANT(S):	<u> </u>	<del></del>	
Tennessee law provides a four thousand of interest personal property exemption from judgment. If a judgment should be entered you wish to claim property as exempt, you of the items you wish to claim as exempt with may be filed at any time and may be chan however, unless it is filed before the judgmeffective as to any execution or garnishme list. Certain items are automatically exemplisted; these include items of necessary we yourself and your family and trunks or other such apparel, family portraits, the family B of these items be seized, you would have not understand your exemption right or how the counsel of a lawyer.  STATE OF TENNESSEE COUNTY OF MONTGOMERY	execution or seizure to d against you in this action in this action in the court in the clerk of the court ged by you thereafter as nent becomes final, it with the clerk of the final, it with the clerk of the final in the court is sued prior to the filling the properties of the clerk and school books. The right to recover the low to exercise it, you mark. Cheryl Castle, Cle	satisfy a on and inder oath, t. The list s necessary; Il not be ng of the ed to be ) for y to contain Should any n. If you do y wish to seek	ATTACH  RETURN  RECEIPT  HERE  (IF APPLICABLE)  Just in the State and County aforesain rect copy of the original summons
(To be completed only if copy certification required,) 00639	Document 1-2 By:	CHERYL Filed 07/10/09	CASTLE, CLERK Page 9 of 32 PageID #: 17

CIRCUIT COURT SUMMONS	<u> </u>	CLARKS	SVILLE, TENNESSEE			
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Gary Linfoot and Wife, Mari Lyn Linfoot		MC CC CV CT OT 10 9 /				
- Intole		DOCKET N				
96 -		Method of	Service:			
	Plaintiff	☐ Montgome	ery County Sheriff			
vs.		☐ Out of Cou	unty Sheriff			
<u>~</u> .		☐ Secretary	of State			
MD Helicopters, Inc.						
C/o David W. Kash, Esq.		☐ Certified M	lail			
One N. Central Avenue, #1200		*: .	☐ Personal Service			
Phoenix, AZ 85004-4417						
	Defendant					
To the above named Defendant:		-				
	isted below. Also, you	are summoned to appear , 20, and show cau	at			
In case of your failure to defend this addemanded in the complaint.	ction by the above date	e, judgment by default will	be rendered against you for the relief			
ISSUED: 5-29-09		CHE	RYL CASTLE			
			uit Court Clerk			
		Montgome	ry County, Tennessee			
. 1		By M. Pr	ullão			
Martin S. Sir. Esq.	<b>**</b>		Deputy Clerk			
ATTORNEY FOR PLAINTIFF	3100 West End	Avenue, Suite 870, A	merican Center, Tower One			
or	Nashville, TN 3	7203				
, ,	11001111110, 1110	.200				
TO THE OHEDER	• • • • • • • • • • • • • • • • • • •	*.				
TO THE SHERIFF: Please execute this summons	s and make your retu	ırn hereon as provided t	py law.			
		¥	CHERYL CASTLE			
Received this summons for service	e this day of	, 20	Circuit Court Clerk			

I hereby certify and return that on the day of _	, 20, i:
served this summons and complain	nt/petition on
	in the following manner:
failed to serve this summons within	30 days after its issuance because
Sherif	ff/Process Server
Return on Service of S	summons by Mail
I hereby certify and return, that on the day of return receipt mail or certified return receipt mail, a certified cop	, 20I sent, postage prepaid, by registered by of the summons and a copy of the complaint in
Docket No to the defendant,, 20, I received the return receipt for said regist	ered or certified mail, which had been signed by
on the day of this original summons and both documents are being sent here	, 20 Said return receipt is attached to with to the Circuit Court Clerk for filing.
SWORN TO AND SUBSCRIBED BEFORE ME ON THIS, 20, 20	PLAINTIFF, PLAINTIFF'S ATTORNEY OR OTHER PERSON AUTHORIZED BY STATUTE TO SERVE PROCESS
NOTARY PUBLIC OR DEPUTY CLERK MY COMMISSION EXPIRES:	
NOTICE TO THE DEFENDANT(S):	
Tennessee law provides a four thousand dollar (\$4,000.00) debtor's einterest personal property exemption from execution or seizure to sati judgment. If a judgment should be entered against you in this action you wish to claim property as exempt, you must file a written list, under of the items you wish to claim as exempt with the clerk of the court. The	sfy a and ATTACH er oath, he list RETURN
may be filed at any time and may be changed by you thereafter as ne however, unless it is filed before the judgment becomes final, it will no	ot be RECEIPT
effective as to any execution or gamishment issued prior to the filing clist. Certain items are automatically exempt by law and do not need to	o be HERE
listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to such apparel, family portraits, the family Bible, and school books. Shoof these items be seized, you would have the right to recover them.	contain (IF APPLICABLE) ould any f you do
not understand your exemption right or how to exercise it, you may wind the counsel of a lawyer.	
	of the Circuit Court in the State and County aforesaid be a true and correct copy of the original summons

(To be completed only if copy certification required.)
Case 3:09-cv-00639

CHERYL CASTLE, CLERK

Document 1-2<sub>By.</sub> Filed 07/10/09 Page 11 of 32 PageID<sub>0</sub>#c 19

CIRCUIT COURT SUMMONS		CLARKSVILL	E, TENNESSEE
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	19 <sup>™</sup> JUDICI	AL DISTRICT	Plurieș
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C/o Kaman Corporation		☐ Certified Mail	
Blue Hills Avenue		☐ Personal Service	<b>e</b>
Bloomfield, CT 06002			
			*
	Defendant	•	
	· · · · · · · · · · · · · · · · · · ·	: -	
To the above named Defendant:		•	
You are summoned to appear and del Milennium Plaza, Suite 115, Clarksville summons is served upon you. You ar the Plaintiff's attorney at the address I	e, TN 37040, and your or e further directed to file isted below. Also, you	defense must be made within the your defense with the Clerk of the are summoned to appear at	irty (30) days from the date this he Court and send a copy fo
on the day or	f	, 20, and show cause	<u>.                                    </u>
In case of your failure to defend this a demanded in the complaint.	ction by the above date	, judgment by default will be ren	dered against you for the relief
ISSUED: 5-29-09	•	CHERYL	CASTI F
	<del></del>	Circuit Co	urt Clerk
		Montgomery Cou	nty, Tennessee
		By Mrul C	حليا
Martin S. Sir. Esq.	*		Deputy Clerk
ATTORNEY FOR PLAINTIFF	3100 West End	Avenue, Suite 870, Americ	an Center, Tower One
OF	Nashville, TN 37	7203	
1 .			
TO THE SHERIFF:	,		
Please execute this summon:	s and make your retu	rn hereon as provided by law	
			CHERYL CASTLE
Received this summons for service	e this day of	, 20	Circuit Court Clerk
		* ****	:

I hereby certify and return that on the day of	f, 20, I:
served this summons and compla	aint/petition on
	in the following manner:
failed to serve this summons with	in 30 days after its issuance because
She	riff/Process Server
Return on Service of	Summons by Mail
I hereby certify and return, that on the day of return receipt mail or certified return receipt mail, a certified co Docket No. to the defendant,	, 20I sent, postage prepaid, by registered opy of the summons and a copy of the complaint in . On the day of
Docket No to the defendant,, 20, I received the return receipt for said regi on the day of this original summons and both documents are being sent he	, 20 Said return receipt is attached to rewith to the Circuit Court Clerk for filing.
SWORN TO AND SUBSCRIBED BEFORE ME ON THIS DAY OF, 20	PLAINTIFF, PLAINTIFF'S ATTORNEY OR OTHER PERSON AUTHORIZED BY STATUTE TO SERVE PROCESS
NOTARY PUBLIC OR DEPUTY CLERK MY COMMISSION EXPIRES:	
NOTICE TO THE DEFENDANT(S):	- -
Tennessee law provides a four thousand dollar (\$4,000.00) debtor's interest personal property exemption from execution or seizure to sa judgment. If a judgment should be entered against you in this actio you wish to claim property as exempt, you must file a written list, un of the items you wish to claim as exempt with the clerk of the court, may be filed at any time and may be changed by you thereafter as a however, unless it is filed before the judgment becomes final, it will effective as to any execution or garnishment issued prior to the filing list. Certain items are automatically exempt by law and do not need listed; these include items of necessary wearing apparel (clothing) if yourself and your family and trunks or other receptacles necessary such apparel, family portraits, the family Bible, and school books. So these items be seized, you would have the right to recover them, not understand your exemption right or how to exercise it, you may	atisfy a n and ATTACH Ider oath, The list RETURN necessary; not be RECEIPT g of the I to be HERE for to contain (IF APPLICABLE) Should any If you do
the counsel of a lawyer.  STATE OF TENNESSEE  I, Cheryl Castle, Clerk	of the Circuit Court in the State and County aforesaid be a true and correct copy of the original summons
(To be completed only if copy certification required))639 Document 1-2 File By:	cheryl Castle, Clerk ed 07/10/09 Page 13 of 32 PageID #: 21 D.C.

## LAW OFFICE OF MARTIN SIR

American Center, Tower One 3100 WEST END AVENUE, STE. 870 NASHVILLE, TN 37203 PHONE: (615) 256-5661 FAX: (615) 277-2529 EMAIL: SIRMARTINLAW@AOL.COM WWW.MARTINSIRLAW.COM

MARTIN S. SIR\*, ATTORNEY AT LAW
\*ALSO ADMITTED TO THE U.S. COURT OF FEDERAL CLAIMS

JOHN AGEE, MANAGING PARALEGAL

June 11, 2009

VIA REGULAR MAIL

Cheryl J. Castle, Court Clerk Montgomery County Circuit Court Two Millennium Plaza, Suite 115 Clarksville, TN 37041-0368

RE: GARY LINFOOT AND WIFE, MARI LYN LINFOOT V. MD HELICOPTERS, INC., L-3 COMMUNICATIONS CORPORATION, AND KAMATICS CORPORATION DOCKET NO. MC CC CV CT 09 1041

JURY DEMAND

Dear Ms. Castle:

Please file the enclosed Amended Complaint and return to the office a file-stamped copy in the enclosed self-addressed envelope.

If you have any questions about this, please let me know.

Thank you for your attention to this matter.

Sara Nau,

Sincerely

Legal Assistant to

Martin Sir

cc: client, file

# IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, TENNESSEE FOR THE NINETEENTH JUDICIAL DISTRICT AT CLARKSVILLE, TENNESSEE

GARY LINFOOT and wife, MARI LYN LINFOOT,  Plaintiffs,  v.  MD HELICOPTERS, INC., L-3 COMMUNICATIONS CORPORATION, and KAMATICS CORPORATION,  Defendants.	) ) ) ) ) ) )	Docket No. MC CC CV CT 09 1041  Jury Demand	2009 JUN 12 PH 3: 11	CINCUIT CONSTITUE
AMENDI	ED C	COMPLAINT	Mangad gar-Co <sup>r</sup> (Milita giring albuquin en <u>anna</u> ada albuqui -	

COME NOW the Plaintiffs and for cause of action against the Defendants state the following:

#### **PARTIES**

- The Plaintiffs are husband and wife and are residents and citizens of Clarksville,
   Tennessee, and were so at all material times herein.
- At all times material herein, Defendant MD HELICOPTERS, INC. ("MD
  HELICOPTERS"), was an Arizona corporation with its principal place of business in the State of
  Arizona.
- 3. At all times material herein, Defendant L-3 COMMUNICATIONS CORPORATION

  ("L-3 COMMUNICATIONS") was a Delaware corporation with its principal place of business in the

  State of New York.
- 4. At all times material herein, Defendant KAMATICS CORPORATION ("KAMATICS") was a Connecticut corporation with its principal place of business in the State of Connecticut.

#### JURISDICTION

5. The Jurisdiction of this Court is invoked pursuant to Tennessee Code Annotated §§ 16-10-101 and 20-2-214.

#### FACTUAL BACKGROUND

- 6. On or about May 31st, 2008, plaintiff GARY LINFOOT was a United States Army soldier, holding the rank of CW4, assigned to Ft. Campbell, Tennessee where he was a member of the 160th Special Operations Aviation Regiment (SOAR) unit and was deployed in Iraq, acting as pilot in command of an AH-6M helicopter, US Army tail number 23649 ("subject helicopter").
- 7. On or about May 31st, 2008, at approximately 11:57 p.m. Arabic Standard Time (Baghdad, Iraq local time), plaintiff GARY LINFOOT was piloting the subject helicopter on a mission south of Baghdad, when the subject helicopter's main driveshaft failed which caused a instantaneous and complete loss of drive to the helicopter's rotors to descend crash into the ground in the vicinity of Baghdad ("subject accident").
- 8. Defendants, and each of them, were engaged in the business of manufacturing, designing, assembling, inspecting, distributing, selling, leasing, servicing, maintaining, modifying, and/or repairing the subject helicopter including, but not limited to, the main driveshaft and its component parts, pilot seat and its component parts, and equipment under or about the pilot's seat.
- 9. Modifications to CW4 Linfoot's seat and the addition of avionics equipment under the seat by defendant L-3 COMMUNICATIONS compromised the crash worthiness of the helicopter and caused GARY LINFOOT to suffer worse injuries than he would have suffered otherwise.
- 10. Defendants, and each of them, were engaged in the business of writing and/or approving instructions and warnings for the subject helicopter, its associated main driveshaft and components, its associated pilot's seat and components, and its associated equipment on or about the pilot's seat, including, but not limited to, their flight and operation manuals, maintenance manuals, maintenance and repair instructions, service bulletins, inspection schedules and service life schedules.

- 11. Plaintiff GARY LINFOOT has suffered and continues to suffer severe and permanent bodily and emotional injuries and damages, including pain, suffering, fright, fear of impending death, loss of the enjoyment of life, medical expenses, loss of earning capacity and other damages.
- 12. Plaintiff MARI LYN LINFOOT has been deprived of the services, society, advice, counsel, comfort, companionship, and consortium of her husband, GARY LINFOOT as a result of the bodily and emotional injuries he sustained in the subject accident.

#### COUNT I-NEGLIENCE

- 13. Plaintiffs restate the allegations of paragraphs 1 through 12 above.
- 14. At all times material hereto, defendants MD HELICOPTERS, L-3

  COMMUNICATIONS, and KAMATICS, and each of them, owed plaintiffs a duty to exercise reasonable care in the design, manufacture, assembly, inspection, testing, distribution, sale, servicing, maintenance, modification, overhaul and repair of the subject helicopter and its component parts, including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat.
- 15. Defendants, and each of them, breached their duties to exercise reasonable care and the subject crash and resulting injuries were caused by defendants' negligence, including negligence by its officers, agents, employees and servants, of defendants, and each of them, in that they negligently manufactured, designed, assembled, inspected, tested, distributed, sold, serviced, maintained, modified, overhauled and repaired the subject helicopter and its component parts, including its main driveshaft and components, the pilot's seat and component parts, and equipment on or about the pilot's seat, and negligently developed operating, training, maintenance materials and/or procedures for the subject helicopter and its component parts, including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat.
- 16. The loss of power leading to the subject accident was caused by defendants' negligence in designing, developing, manufacturing, assembling, testing, servicing, inspecting, maintaining,

overhauling, repairing, renovating, modifying and/or remanufacturing the subject helicopter, including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat.

17. As a direct and proximate result of the foregoing negligence of defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them, plaintiffs have suffered substantial damages, including those set forth more fully above, and in an amount not less than fifteen million dollars (\$15,000,000.00) costs and such further relief as directed by this Court.

#### COUNT II - VIOLATION OF TENNESSEE PRODUCTS LIABILITY ACT

- 18. Plaintiffs restate the allegations of paragraphs 1 through 17 above.
- 19. On or about May 31st, 2008, the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat were being operated and used for the purpose and in the manner for which they were designed, manufactured, assembled, tested, serviced, distributed and sold and intended to be used in a manner foreseeable to defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them.
- 20. On or about May 31st, 2008, the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat, including accompanying written manuals, procedures, instructions and warnings, were defective, unreasonably dangerous, and unsafe by reason of defective design, manufacturing assembly, inspection, testing, sale, service, repair, overhaul and maintenance of the subject helicopter and its component parts including its main driveshaft and its components, the pilot's seat and components, and equipment under or about the pilot's seat, including its accompanying written manuals, procedures, instructions and warnings.
- 21. On or about May 31st, 2008, defendants, and each of them, were required to design, manufacture, construct, prepare, assemble, test, service, warn, instruct, market, label, and/or sell the

subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat, so pilots could safely operate the helicopter in all foreseeable phases of flight; however the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat, were not adequately designed, manufactured, constructed, prepared, assembled, tested, serviced, marketed, labeled, or contained the necessary warnings and/or instructions so as to prevent a total loss of power to the main driveshaft, prevent catastrophic damage to the main driveshaft coupling(s), prevent the full crashworthiness ability of the pilot seat, and/or prevent the safe, foreseeable operation of the subject helicopter, thus causing the subject helicopter to be unsafe, defective, and unreasonably dangerous.

- The subject crash on or about May 31st, 2008 and resulting injuries, were caused by the 22. aforementioned defective, unreasonably dangerous, and unsafe conditions of the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat, and accompanying warnings, instructions, and manuals.
- 23. As a direct and proximate result of the foregoing defective, unreasonably dangerous and unsafe conditions of the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat, and accompanying warnings, instructions, and manuals, defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them, caused plaintiffs to suffer substantial damages, including those set forth more fully above, and in an amount not less than fifteen million dollars (\$15,000,000.00) costs, and such further relief as directed by this Court.

#### COUNT III - BREACH OF WARRANTY

24. Plaintiffs restate the allegations of paragraphs 1 through 23 above.

- Prior to the subject accident on or about May 31st, 2008, defendants MD 25. HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them, warranted and represented that the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and component parts, and equipment under or about the pilot's seat, and accompanying warnings, instructions, and manuals, were airworthy, of merchantable quality, fit and safe for the purposes for which they were designed, manufactured, assembled, sold, installed, tested, maintained, and repaired, and were free from all defects.
- 26. Defendants, and each of them, breached said warranties in that the subject helicopter and its component parts including its main driveshaft and components, the pilot's seat and components, and equipment under or about the pilot's seat, and accompanying warnings, instructions, and manuals, were not airworthy, not of merchantable quality, and not fit and safe for the purposes for which they were designed, manufactured, assembled, inspected, tested, sold, serviced, repaired, maintained, intended and used, and further were not free from all defects.
- The subject accident on or about May 31st, 2008, and resulting injuries were caused by 27. the defendants, and each of them, breach of aforementioned warranties.
- 28. As a direct and proximate result of the foregoing breach of warranties by defendants MD HELICOPTERS, L-3 COMMUNICATIONS, and KAMATICS, and each of them, plaintiffs have suffered substantial damages, including those set forth more fully above, and in an amount not less than fifteen million dollars (\$15,000,000.00), costs, and such further relief as directed by this Court.

#### PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs GARY LINFOOT and MARI LYN LINFOOT respectfully request a judgment against defendants MD HELICOPTERS, INC., L-3 COMMUNICATIONS, INC., and KAMATICS CORPORATION, and each of them, in an amount not less than fifteen million dollars (\$15,000,000,00), which shall be proven at trial, for the following damages:

- 1. Medical and other expenses;
- 2. Lost wages, lost income, and loss of earning capacity;
- 3. Pain and suffering;
- 4. Emotional and mental anguish;
- 5. Loss of enjoyment of life;
- 6. Loss of consortium, and
- 7. All interests, costs, and other damages and other relief that this Court may deem just under the circumstances of this case.

#### JURY DEMAND

Plaintiffs respectfully demand a trial by jury.

Respectfully submitted,

Martin Sir and Associates

Martin Sir (BPR #7173)
American Center, Tower One
3100 West End Avenue, Suite 870

Nashville, TN 37203 (615) 256-5661

Attorney for Plaintiffs

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CIRCUIT COURT SUMMONS		CLARKSVILLE, TENNESSEE
	STATE OF T	ENNESSEE
	MONTGOME	RY COUNTY
	19 <sup>™</sup> JUDICIA	AL DISTRICT Pluries
	1	MCCCCV (1) O9 104)
Gary Linfoot and Wife, Mari Lyn Linfoot		CIVIL ACTION
Man Lyn Limoot		DOCKET NO.
		Method of Service:
	Plaintiff	☐ Montgomery County Sheriff
vs.		☐ Out of County Sheriff
		☐ Secretary of State
L-3 Communications Corporatio	n ,	ro.
C/o CT Corporation System		☐ Certified Mail
111 Eighth Avenue		Personal Service 2 20 451 LERK
New York, NY 10011		THE RELIGION OF THE PARTY OF TH
		CICIRCO
	Defendant	Biliman
	-	
To the above named Defendant:		
Milennium Plaza, Suite 115, Clarksville summons is served upon you. You are the Plaintiff's attorney at the address lis	TN 37040, and your defurther directed to file standard below. Also, you a	nplaint of Divorce □ Petition filed against you in Circuit Court, 2 efense must be made within thirty (30) days from the date this your defense with the Clerk of the Court and send a copy force summoned to appear at
On the day of	· <u>· · · · · · · · · · · · · · · · · · </u>	, 20, and show cause
In case of your failure to defend this ac demanded in the complaint.	tion by the above date,	judgment by default will be rendered against you for the relief
ISSUED: 5-29-09	7	CHERYL CASTLE
	····	Circuit Court Clerk
•	-	Montgomery County, Tennessee
		By M th, 00,00
Martin S. Sir. Esq.		Deputy Clerk
ATTORNEY FOR PLAINTIFF	3100 West End A	venue, Suite 870, American Center, Tower One
or	Nashville, TN 37	203
	•.	
TO THE SHERIFF: Please execute this summons	and make your return	n hereon as provided by law.
		CHERYL CASTLE
Received this summons for service	this day of	Circuit Court Clerk

I hereby certify and return that o	n the day o	f	, 20	_, l:
served this	s summons and compl	aint/petition on _		
·			in the following	ng manner:
failed to se	erve this summons with	nin 30 days after i	ts issuance because	e
	She	eriff/Process Server	<del></del>	
	Return on Service of	Summons by M	ail	+KMEMIE
I hereby certify and return, that on the return receipt mail or certified return Docket No. To to the defendance of this original suffmons and both documents of the suffmons and	day of	opy of the summon istered or certified rewith to the Circuit PLAINTIFF, PL	I sent, postage preparations and a copy of the co	aid, by registered complaint in day of <u>OUNE</u> signed byot is attached to
NOTICE TO THE DEFENDANT(S):		_		
Tennessee law provides a four thousand interest personal property exemption for judgment. If a judgment should be entered you wish to claim property as exempt, you wish to claim as exempt may be filed at any time and may be chowever, unless it is filed before the judeffective as to any execution or garnish list. Certain items are automatically exelisted; these include items of necessary yourself and your family and trunks or of such apparel, family portraits, the family of these items be seized, you would have not understand your exemption right or the counsel of a lawyer.  STATE OF TENNESSEE COUNTY OF MONTGOMERY	om execution or seizure to sered against you in this action of must file a written list, until with the clerk of the court anged by you thereafter as algment becomes final, it will ment issued prior to the film empt by law and do not need wearing apparel (clothing) other receptacles necessary Bible, and school books. We the right to recover them how to exercise it, you may	atisfy a on and onder oath, The list necessary; not be g of the d to be for to contain Should any If you do wish to seek	ATTACH  RETURN  RECEIPT  HERE  (IF APPLICABLE)  It in the State and Council copy of the original	
(To be completed only if copy certification required ) 0639	Document 1-2 <sub>By</sub> Fil		CASTLE, CLERK Page 25 of 32 Page	eID <i>#</i> ;_33

Document 1-2<sub>By:</sub> Filed 07/10/09 Page 25 of 32 PageID #: 33

## LAW OFFICE OF MARTIN SIR

American Center, Tower One

3100 West End Avenue, Ste. 870 Nashville, TN 37203 Phone: (615) 256-5661 Fax: (615) 277-2529 email: sirmartinlaw@aol.com www.martinsirlaw.com

Martin S. Sir\*, Attorney at Law \*also admitted to the U.S. Court of Federal Claims

John Agee, Managing Paralegal

June 29, 2009

Cheryl Castle Circuit Court Clerk Two Millennium Plaza, Suite 115 Clarksville, TN 37041-0368

#### **ENCLOSURE:**

(1) Circuit Court Summons sent to L-3 Communications Corporation

RE: Gary Lindfoot and Wife, Mari Lyn Linfoot vs. L-3 Communications Corporation

Dear Ms. Castle:

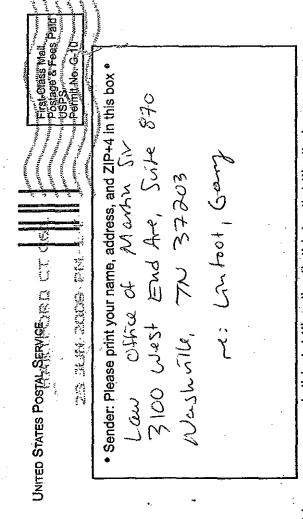
Please find the enclosed summons in the above-referenced case that was sent to L-3 Communications Corporation on the 19<sup>th</sup> day of June 2009 and received by said Corporation on the 23<sup>rd</sup> day of June 2009 as evidenced by the Return Receipt attached. Please return to my office a stamped filed copy in the enclosed, self-addressed stamped envelope.

Martin Sir

Sincerely.

cc: file

Domestic Return Receipt	760 0000 670	2. Article Nurr	9	Bloom Field, CT 0600)	DIS ESS FE	Clo Kauman Comporation	Conporation		or on the front if space permits	Print your name and address on the reverse so that we can return the cast to	Complete Items 1, 2, and 3. Also complete Item 4 If Restricted Delice.	SENDER: COMPLETE THIS SECTION
Receipt 102595-02-M-1540 j		Delivery	☐ Registered ☐ Receipt for Merchandise ☐ C.O.D.	3. Service Type  CI Certificat (A-1)	C	The state of the s	If YES, enter delivery address below	L	B. Bezeived by Printed Names   C. Date of Delivary	0.000	A. Signature)	<b>3</b>



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CIRCUIT COURT SUMMONS	, w	CLARKSVILLE, TENNESSEE
	STATE OF	TENNESSEE
<u>.</u>	MONTGOM	ERY COUNTY
	19 <sup>™</sup> JUDICI	AL DISTRICT ☐ Pluries
		1 MCCCCV CT 09 104/
Gary Linfoot and Wife, Mari Lyn Linfoot		CIVIL ACTION
Man Lyn Linoot		DOCKET NO.
•		Method of Service:
	Plaintiff	☐ Montgomery County Sheriff
Vs.	-	☐ Out of County Sheriff
ta.		☐ Secretary of State
Kamatics Corporation		
C/o Kaman Corporation	•	☐ Certified Mail
Blue Hills Avenue		☐ Personal Service FILE(A)
Bloomfield, CT 06002		7-1 20 ASTLE CLERK CHERYL J. CASTLE CLERK
		CHEROLITICOURT CLERA D.C.
	Defendant	BY successment of the supplemental supplemen
To the above named Defendant:	- W	
the Plaintiff's attorney at the address li	isted below. Also, you	your defense with the Clerk of the Court and send a copy fo are summoned to appear at, 20, and show cause
In case of your failure to defend this addemanded in the complaint.	ction by the above date	, judgment by default will be rendered against you for the relief
ISSUED: 5-29-09		CHERYL CASTLE
		Giscuit Court Clerk
		Montgomery County, Tennessee
1	_	By M. the O. O.
Martin S. Sir. Esq.	•	Deputy Clerk
ATTORNEY FOR PLAINTIFF	3100 West End	Avenue, Suite 870, American Center, Tower One
or	Nashville, TN 37	7203
TO THE SHERIFF:		
Please execute this summons	s and make your retu	rn hereon as provided by law.
		CHERYL CASTLE
		Circuit Court Clerk
Received this summons for service	e this day of	, 20

I hereby certify and return that on the day of, 20, I:
served this summons and complaint/petition on
in the following manner
failed to serve this summons within 30 days after its issuance because
Manufacture of the Control of the Co
Sheriff/Process Server
Sheriff/Process Server  STATE  OF  Return on Service of Summons by Mail  TENNESSEE  Thereby Perfiffy and return, that on the day of VONE, 2059 I sent, postage prepaid, by registered return receipt mail occertified return receipt mail, a certified copy of the summons and a copy of the complaintin.
TENNESSEE TO THE TOTAL T
refusive centry and return, that on the 11 day of $\sqrt{0.17}$ and $\sqrt{0.000}$ I sent, postage prepaid, by registered
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this original summons and bour documents are being sent herewith to the Chour Count Zieth for hing.
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SWORN TO AND SUBSCRIBED BEFORE ME ON THIS PLAINTIFF'S ATTORNEY
DAY OF JUY, 2009. OR OTHER PERSON AUTHORIZED BY STATUTE TO SERVE PROCESS
A A
MY COMMISSION EXPIRES: 11 - 2 2 - 09
MY COMMISSION EXPIRES: 11 - 2 - 09
V
TO THE DEFENDANT(S):
Tennessee law provides a four thousand dollar (\$4,000.00) debtor's equity
interest personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and ATTACH
you wish to claim property as exempt, you must file a written list, under oath,
of the items you wish to claim as exempt with the clerk of the court. The list RETURN
may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be  RECEIPT
effective as to any execution or garnishment issued prior to the filing of the
list. Certain items are automatically exempt by law and do not need to be HERE listed; these include items of necessary wearing apparel (clothing) for
yourself and your family and trunks or other receptacles necessary to contain (IF APPLICABLE)
such apparel, family portraits, the family Bible, and school books. Should any
of these items be seized, you would have the right to recover them. If you do
not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.
STATE OF TENNESSEE I, Cheryl Castle, Clerk of the Circuit Court in the State and County aforesaid
COUNTY OF MONTGOMERY do herby certify this to be a true and correct copy of the original summons issued in this case.
(To be completed only if CHERYL CASTLE, CLERK
copy certifications required 00639 Document 1-2 Filed 07/10/09 Page 30 of 32 PageID #: 38
By:D.C.

## LAW OFFICE OF MARTIN SIR

American Center, Tower One

3100 West End Avenue, Ste. 870 Nashville, TN 37203 Phone: (615) 256-5661 Fax: (615) 277-2529 email: sirmartinlaw@aol.com www.martinsirlaw.com

Martin S. Sir\*, Attorney at Law \*also admitted to the U.S. Court of Federal Claims

John Agee, Managing Paralegal

June 29, 2009

Cheryl Castle Circuit Court Clerk Two Millennium Plaza, Suite 115 Clarksville, TN 37041-0368

#### **ENCLOSURE:**

(1) Circuit Court Summons sent to Kamatics Corporation

RE: Gary Lindfoot and Wife, Mari Lyn Linfoot vs. Kamatics Corporation

Dear Ms. Castle:

Please find the enclosed summons in the above-referenced case that was sent to Kamatics Corporation on the 19<sup>th</sup> day of June 2009 and received by said Corporation on the 23<sup>rd</sup> day of June 2009 as evidenced by the Return Receipt attached. Please return to my office a stamped filed copy in the enclosed, self-addressed stamped envelope.

Sincerely,

Martin Sir

cc: file

## Circuit Court

**Montgomery County** 

Clarksville Tennessee

## **SUBPOENA**

Case Number

DV 09-0215

Julie Kay Greene

vs. Brian Wesley Greene

Julie pay chedia	vs. Miller ve way dequite
To Any Lawful Officer of Said County:  Under penalty prescribed by law, you are commanded to Path Cu Benton  825 Brooke Valley Technology	PRIVATE PROCESS.
<u>925 Brooke Valley Tra</u> Clankshile TN 3704	
at Office of Deborah Evans to appear personally before the Circuit Court of Me	136 Franklinst. Ste 300 Clarksville TN
and bring the following:	
Duces Tecum:	
Issued:	Clerk / Deputy Clerk
subpoena requested by: Kevin ( . Kennedy telephone number: 931-445-9900	, ATTORNEY/PLAINTIFF/DEFENDANT
OFFICER'S RETURN: Came hand this date and execution ☐ Delivering the within subpoena to the witness	named herein
☐ Unable to serve because	<u> 1980 - Maria Barata, and Araba Barata, and Araba Barata, and an Araba Barata, and an Araba Barata, and an Ar</u> Harata
Date:By:_	Officer, Title
ATTORNEY'S RETURN OF SERVICE:	
Attorney's Name, Address and Telephone Number Keyin C. Klinkay	Designee's Name, Address and Telephone Number
127 S. 3rd St. Clankshille TN 37040 931-645-9900	
certify that on the date indicated below I served a copy of	of this subpoena on the witness
Date: RECEIVED	
JUL 0 2 2009	Signature of Attorney/Designee